



**AUG - 3 2005**

The Honorable Mark R. Warner  
Governor of Virginia  
Executive Office Building, 3rd Floor  
111 East Broad Street  
Richmond, Virginia 23219

Dear Governor Warner:

It is with pleasure that I respond to the Commonwealth of Virginia's request for waivers of statutory and regulatory requirements under the Workforce Investment Act (WIA). This action is taken under the Secretary's authority to waive certain requirements of WIA Title I, subtitles B and E and Sections 8-10 of the Wagner-Peyser Act. In the Strategic State Plan for Title I of the Workforce Investment Act and the Wagner-Peyser Act for the two-year period, July 1, 2005, through June 30, 2007, the Commonwealth submitted eight waiver requests. The following is the disposition of the Commonwealth's waiver submission (copy enclosed).

Requested Waiver 1: Waiver to increase transfer authority of Local Workforce Investment Boards from the current 20 percent to 100 percent for Adult and Dislocated Worker funds.

This waiver request for funds transferability is consistent with one of the improvements that the Administration is seeking in the reauthorization of the Workforce Investment Act—the consolidation of the WIA Adult, WIA Dislocated Worker and Wagner-Peyser Act (Employment Service) funding streams. The request is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), and appears to meet the standard for approval at 20 CFR 661.420(e). Accordingly, the Commonwealth of Virginia is granted a waiver of the funds transfer limitation at WIA Section 133(b)(4), through June 30, 2007. The waiver allows the Commonwealth to approve local area requests to transfer up to 100 percent of local area allocations between the WIA Adult and Dislocated Worker programs.

Requested Waiver 2: Waiver to spend up to 25 percent of funds allocated to a local area to carry out incumbent worker training.

The Commonwealth seeks this waiver to support statewide activities targeted to adults and dislocated workers. Accordingly, the Commonwealth of Virginia is granted a waiver of the language that limits the authority to provide the activities identified in WIA Section 134 to the state. This waiver will permit local areas to request the use of

up to 25 percent of local area formula allocation funds for adults, dislocated workers and youth to provide statewide employment and training activities identified at WIA Section 134, through June 30, 2007.

Requested Waiver 3: Waiver to use Individual Training Accounts (ITAs) for youth participants.

The Commonwealth indicates that the waiver will offer flexibility in using youth funds to provide training services to youth while retaining limited adult funds to be used on adult training services. The request is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), and appears to meet the standard for approval at 20 CFR 661.420(e). Accordingly, the Commonwealth is granted a waiver of the prohibition on the use of ITAs for older and out-of-school youth, at 20 CFR 664.510, through June 30, 2007. The Commonwealth should ensure that funds used for ITAs are tracked and reflected in the individual service strategies for these youth.

Requested Waiver 4: Waiver of the provision contained in WIA Section 181(e), which prohibits the use of WIA Title I funds for economic development activities that are not directly related to training for eligible individuals.

The Commonwealth seeks this waiver to allow the state to pursue economic development activities that are not directly related to training. Accordingly, we are approving a waiver of the provision at WIA Section 181(e), through June 30, 2007. Under the waiver, funds may only be used for economic development activities that have a direct tie to workforce development and human capital solutions, such as work related to identifying skill requirements of business and developing industry-recognized competency models. Funds may not be used for activities such as infrastructure development or business financing. The Commonwealth indicated in its request that a committee of the Virginia Workforce Council will monitor the progress of the implementation of this waiver.

Requested Waiver 5: Waiver to change the credential definition so that the Career Readiness Certificate (CRC) and the GED may count as a credential for WIA participants who are not enrolled in a training activity.

The Commonwealth is requesting a waiver of ETA policy described in Training and Employment Guidance Letter 7-99, which outlines how the credential rate is calculated. Currently, only customers in training are included in credential rate calculations, based on ETA's strong belief that training is the service that leads to attainment of a credential. The Commonwealth would like to add customers who earned a CRC and customers who received a GED, without receiving training, to the calculation of the credential rate.

This request is related to the WIA key reform principle of increased accountability, which requires that the state demonstrate extremely unusual circumstances. We have determined that the Commonwealth's request does not meet the higher standard for waiving a key WIA reform principle at 20 CFR 661.410(c).

However, we are interested in supporting Virginia's efforts to create better matches between employers and job seekers with skills. In lieu of granting a waiver of the credential rate policy, we are approving a waiver to conduct a pilot to determine the value that the CRC may have in increasing employment opportunities, performance, and employer involvement. Under the waiver, the Commonwealth will be able to include individuals in the credential measure calculation who receive a CRC or a GED without training. As a condition of allowing this additional flexibility, we ask that the Commonwealth provide a quarterly update that includes a breakout of individuals who received training, and individuals who received a CRC or a GED without training, for the credential measure.

Requested Waiver 6: Waiver to provide the Commonwealth the option of recapturing funds from local areas that have not expended at least 80 percent of their local funds in the first year to be used for statewide use or reallocated to other eligible local areas.

The Commonwealth indicates that this waiver will ensure maximum expenditure of funds, promote more effective and integrated service delivery, and improve administrative efficiencies. The waiver request is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), and appears to meet the standard for approval at 20 CFR 661.410(e). Based on the Commonwealth's request, we are granting a waiver of the reallocation provisions of WIA Sections 128(c)(2) and 133(c)(2), and 20 CFR 667.160, to permit the implementation of the proposed recapture and reallocation policy described in its request.

Requested Waiver 7: Waiver to allow the Governor to modify the membership requirements for local workforce boards.

The establishment and functions of local boards are excluded from the WIA waiver authority. Therefore, we cannot approve your request to waive local board membership requirements.

Requested Waiver 8 : Waiver to allow local areas to increase the percentage of youth who do not meet the income criteria.

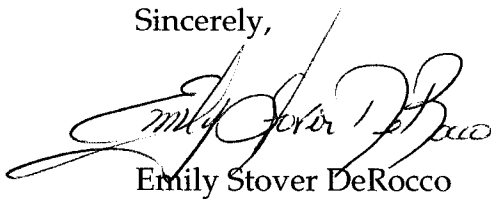
Provisions related to the eligibility of participants are excluded from the WIA waiver authority and cannot be waived. The statute provides some flexibility to states in this area through a limited exception to the low-income criterion at WIA Section 129(c)(5).

Additionally, the regulations (20 CFR 661.120) give states and local governments authority to establish their own policies and guidelines relating to verifying and documenting eligibility, as long as they are consistent with the statute, the regulations and other federal statutes.

As provided for under paragraph 3 of the executed Agreement, the approved waivers are incorporated by reference into the State's WIA Grant Agreement. A copy of this letter should be filed with the WIA Grant Agreement and the Strategic Plan, as appropriate.

We look forward to continuing our partnership with you and achieving better workforce investment outcomes. We are prepared to entertain other state and local level waiver requests that you may wish to submit, consistent with the provisions of the WIA statute and regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Emily Stover DeRocco", is written over a horizontal line.

Emily Stover DeRocco

Enclosure